



Virginia  
Regulatory  
Town Hall

## Emergency Regulation Agency Background Document

Agency Name:	Dept. of Medical Assistance Services
VAC Chapter Number:	12 VAC 30 Chapter 40
Regulation Title:	Income eligibility levels; Eligibility under § 1931 of the Act
Action Title:	Freeze the CPI Adjustment for Medically Needy and Standards of Assistance Income limits through FY 2004.
Date:	GOV ACTION NEEDED BY 6/27/2003

Section 9-6.14:4.1(C)(5) of the Administrative Process Act allows for the adoption of emergency regulations. Please refer to the APA, Executive Order Twenty-Four (98), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the emergency regulation submission package.

### Emergency Preamble

*Please provide a statement that the emergency regulation is necessary and provide detail of the nature of the emergency. Section 9-6.14:4.1(C)(5) of the Administrative Process Act states that an "emergency situation" means: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. The statement should also identify that the regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4).*

*Please include a brief summary of the emergency action. There is no need to state each provision or amendment.*

This regulatory action qualifies as an emergency, pursuant to the authority of the Code of Virginia, 1950 as amended, § 2.2-4011, because it is responding to a change in the Virginia Appropriations Act that must be effective within 280 days from the date of enactment of the Appropriations Act (the 2003 Acts of Assembly) and this regulatory action is not otherwise exempt under the provisions of the Code § 2.2-4006. This regulatory action proposes to amend the State Plan for Medical Assistance Services so that the Medically Needy Income limits and

the Standards of Assistance Income limits remain at their current level through the fiscal year ending June 30, 2004.

This action is intended to be applicable to payments for services in State Fiscal Year 2004 only. Since this is the time period in which this emergency regulation will be effective, there is no need for DMAS to continue regulating the issue contained in this emergency regulation past the effective period permitted by this emergency action. Therefore DMAS is not seeking approval of a Notice of Intended Regulatory Action in conformance to § 2.2-4007.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the emergency regulation. The discussion of this emergency statutory authority should: 1) describe its scope; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, should be provided.*

*Please provide a statement that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with applicable state and/or federal law.*

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The Code of Virginia (1950) as amended, § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. The Code of Virginia (1950) as amended, § 32.1-324, authorizes the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the Board's requirements.

The Medicaid authority as established by § 1902 (a) of the Social Security Act [42 U.S.C. 1396a] provides governing authority for payments for services

## Substance

*Please detail any changes, other than strictly editorial changes, that would be implemented. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Please provide a cross-walk which includes citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of Virginians. The statement should also delineate any potential issues that may need to be addressed as a permanent final regulation is developed.*

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The sections of the State Plan for Medical Assistance that are affected by this action are Income Eligibility Levels and Eligibility under § 1931 of the Act (12 VAC 30-40-220 and 12 VAC 30-40-345, respectively).

The 2000 Appropriation Act (Chapter 1073 item 319W) directed that the Medically Needy Income limits were to be increased annually to reflect increases in the Consumer Price Index (CPI) beginning July 1, 2001.

The 2003 Appropriations Act (Item 325 N) directed DMAS to amend the State Plan for Medical Assistance Services to freeze the Medically Needy Income limits at their current level through the fiscal year ending June 30, 2004. By federal law, the Medically Needy Income limits may not exceed 133 1/3 percent of the income limits set for the AFDC program. Therefore, to ensure continued federal financial participation, any changes in the Medically Needy Income limits must also be made in the Standards of Assistance listed in the State Plan for families who are eligible for Medicaid because they meet the requirements of the AFDC plan (see §§ 1902(a)(10)(C), 1902(a)(17) and 1931 of the *Social Security Act* and 42 CFR 435.811 and 42 CFR 435.1007).

## Alternatives

*Please describe the specific alternatives that were considered and the rationale used by the agency to select the least burdensome or intrusive method to meet the essential purpose of the action.*

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There are no alternatives to this regulatory action. This action complies with the directives issued in the 2003 Appropriations Act.

## Family Impact Statement

Please provide a preliminary analysis of the potential impact of the emergency action on the institution of the family and family stability including to what extent the action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

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This regulation has no impact on existing recipients or their families. These changes do not strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; strengthen or erode the marital commitment; or increase or decrease disposable family income.